

Exhibit “MMM” to Amended Verified Petition

130-40-40 SPECIAL EXCEPTION USE AND PUBLIC HEARING
PROCEDURE

130-40-40.10 Application for a permit authorizing a special exception use shall be made directly to the Planning Board in the form required by the Planning Board accompanied by a filing fee payable to the town clerk and a site plan according to Section 140-50.

130-40-40.20 The Planning Board shall hold a public hearing within 30 days from the time of receipt of the complete application by the Planning Board, and shall provide for the giving of notice at least 5 days prior to the date thereof in the same manner as provided for in Sections 130-20-20.10 through 130-20-20.40 for applications to the Board of Appeals for variances.

130-40-40.30 No action shall be taken on applications referred to the Orange County Planning Department until the Department's recommendation has been received or 30 days have elapsed after the Department received the full statement on the applicant's proposal.

130-40-40.40 Failure of the Planning Board to take action on a special exception use within 45 days of the public hearing shall be construed as approval of such use by the Planning Board. However, the Planning Board may act to extend the 45 day period following the public hearing for a specified time where it deems necessary due to unusual circumstances. Such specified time shall not exceed six months.

130-40-40.50 A record shall be established of all special exception uses granted pursuant to action of the Planning Board under this ordinance. Each case shall be identified by a sequential numbering system and alphabetically by applicant's name. Said files shall be available for public inspection.

130-40-40.60 Upon the granting of a permit for a special exception use by the Planning Board, the Secretary of the Planning Board shall transmit written approval of such use to the Building Inspector prior to his issuance of a building permit for the special exception use.

130-40-40.70 Building permits authorized by Planning Board actions on special exception cases shall be obtained within 90 days and shall automatically expire if construction under the permit is not started within 90 days of issuance and completed within one year. Extensions of these periods may be granted by the Planning Board where good cause is shown.

130-40-40.80 The fee for applications to the Planning Board shall be in accordance with the current Town Fee Schedule.

130-50 VARIANCES (Board of Appeals)

130-50-10 The Board of Appeals shall have the power in passing on appeals where, as a result of exceptional physical conditions connected with a particular site, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Local Law that would deprive the owner of the reasonable use of the land or building involved, to vary or modify the application of the regulations or provisions of this Local Law.

130-50-20 GUIDING PRINCIPLES

130-50-20.01 Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.

130-50-20.02 Every variance granted by the Board of Appeals may be made subject to conditions and safeguards as the Board shall deem to be applicable to the particular case. Violations of such conditions or safeguards which are a part of the Board's decision shall be deemed a violation of this Local Law punishable under the provisions of Section 140.

130-50-20.03 Any variance granted by the Board of Appeals pursuant to the provisions of this section shall be construed to be of nonconforming use.

130-50-30 GENERAL STANDARDS

130-50-30.01 For every such variance in the strict application of any provision of this Local Law the Board of Appeals shall determine the following:

(a) That strict application of the Local Law would cause practical difficulties or unnecessary hardships that, under the circumstances, would deprive the applicant of the reasonable use of such land or buildings;

(b) That such practical difficulties or unnecessary hardships are unique and are not shared by all properties in the vicinity;

(c) That such variance is the minimum variance that will relieve such practical difficulties or unnecessary hardships;

(d) That such variance is in the spirit of the general purposes and intent of this Local Law as stated in Section 20;